

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

HERBERT G. POLK,)	
)	
Petitioner,)	
)	
vs.)	CIV-06-278-W
)	
JUSTIN JONES, Director,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

With his Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2254, Petitioner has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit. Having reviewed said motion and affidavit, the undersigned finds that Petitioner has sufficient financial resources to pay the \$5.00 filing fee. Because he does not qualify for authorization to proceed without prepayment of the filing fee, Petitioner's motion should be denied, and he should be required to pay the full filing fee for this action to proceed.

RECOMMENDATION

Based on the foregoing findings, it is recommended that the motion for leave to proceed *in forma pauperis* (Doc. #2) be DENIED and the action be dismissed without

prejudice unless Petitioner pays the full filing fee to the Clerk of the Court by April 10th, 2006. Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by April 10th, 2006, in accordance with 28 U.S.C. §636 and LCvR 72.1. Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States of America, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 20th day of March, 2006.


GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE